



Scarce resource allocation policy

Virginia's Secretary of Health and Human Resources has issued a guidance document for health care facilities – "Ethical Considerations, Implementation Processes, and Clinical Evaluation Tools for Crisis Standards of Care for Pandemic or Disaster Planning and Response" – that provides instructions for the development of scarce resource allocation policies in the event of a pandemic or other disaster. Even in disasters, community medical needs are typically met by the health care delivery system, which functions as part of a coordinated local, state, and federal response effort. Depending upon the circumstances though, the scope and scale of the disaster may threaten to overwhelm a community's available critical resources for a time. When this happens, available critical resources may be inadequate to meet all needs or there could be disruption in access to such resources. There is the potential for this to occur during an unprecedented crisis despite advance planning, preparation, and coordination efforts to avoid these scenarios and enhance existing medical surge capabilities.

Frequently asked questions

What is a scarce resource allocation policy?

The scarce resource allocation policy is a guidance document developed with the input of health care leaders, ethicists, public health officials, attorneys, patient advocates, and other stakeholders that is available for health care officials to consult during large-scale disasters or widespread public health emergencies to assist them in ethically and equitably deploying scarce critical resources during a catastrophic situation in which the health care delivery system is overburdened.

What is the purpose/effect of this guidance document?

The guidance document – "Ethical Considerations, Implementation Processes, and Clinical Evaluation Tools for Crisis Standards of Care for Pandemic or Disaster Planning and Response" – presents a framework through which Virginia hospitals and health care institutions that are involved in the allocation of critical resources can develop a set of protocols for implementing equitable and ethical protocols regarding the allocation of scarce resources under crisis standards of care should capacity be severely strained as a result of a pandemic or other disaster. It incorporates ethical considerations to guide the development of such policies and recommendations for establishing clinical decision-making processes and algorithms for triaging patients and allocating scarce

critical resources, with a primary focus on acute care hospitals. Although hospitals are the primary focus, the standards and principles set forth in the guidance document are also applicable to other health care providers involved in scarce resource allocation.

Who is involved in its development and will it be updated?

Work on the guidance document began earlier this year, following Governor Ralph Northam's issuance of Executive Order 51 declaring a state of emergency exists in the Commonwealth of Virginia due to the public health threat caused by COVID-19 with a recognition that any future escalation to crisis standards of care should include guidance on implementing scarce resource allocation policies through an ethical framework that emphasizes health equity and non-discrimination principles. An ethical framework was developed with the assistance of legal, ethics, medical, and public health experts and a draft guidance document was adopted by the Virginia Disaster Medical Advisory Committee and further refined and approved by a Scarce Resource Allocation Policy Work Group featuring diverse representation from stakeholders including the Virginia Department of Health, Office of Health Equity (OHE), Advisory Council of Health Disparity and Health Equity (ACHDHE), Virginia Department of Housing and Community Development (VDHCD), Virginia Board for People with Disabilities (VDPD), Virginia Department for Deaf and Hard of Hearing (VDDHH), Virginia Department of Behavioral Health and Developmental Services (DBHDS), Medical Society of Virginia (MSV), disAbility Law Center, ARC of Virginia, faith-based communities, communities of color, and health system ethicists. The guidance document is built on the notion that any scarce resource allocation policy must comply with all applicable anti-discrimination statutes, such as the Americans with Disabilities Act (ADA), the Age Discrimination Act, as well as any corresponding state laws, such as the Virginians with Disabilities Act.

What would trigger implementation of the policies and what would that mean for patients seeking/receiving hospital care?

Scarce resource allocation policies can be implemented at a health facility, across a region, or throughout the Commonwealth. These last resort measures are to be taken only after all other efforts to address resource shortages have been exhausted. As it relates to the activation of crisis standards of care, the triggers are crucial decision points based on changes in resource availability that require a modification of health care service delivery along the continuum of care. Triggers occur at a point where strategies implemented to mitigate shortages and coordinate available critical resources are no longer sufficient to provide care equivalent to the usual standard of care.

Would the state declare when scarce resource allocation policies apply or can individual facilities implement these standards?

Either could occur depending on the scale and scope of an emergency or disaster situation. If a crisis situation is isolated, a scarce resource allocation plan may only be appropriate for an impacted facility or region.

Is this unique to Virginia or do other states have similar guidance documents?

There is no national or universally accepted standard for allocation policies in response to a pandemic or other disaster. Professional organizations, states, regions, and localities have adopted different approaches to allocation of critical resources during a scarcity. While processes and protocols may differ from one state to another, the development of contingency plans for scarce resource allocation scenarios is a core component of emergency management and preparedness work and key elements such as ethical guidelines, individualized assessments using objective triage tools, and strong protections against discrimination are common themes across all of these various plans. Regardless of the resources in question though, the same ethical framework and equitable allocation principles apply.

What all does this entail? Are we talking about things like who get a hospital bed, who gets a ventilator, who gets turned away?

Critical resources deemed scarce may differ depending on specific disaster situations. It could be a hospital bed, a ventilator, or a range of other health care resources that become in short supply due to an extraordinary circumstance.

This sounds an awful lot like care rationing. Is it? And if it is, who makes those decisions and what factors are considered?

As previously noted, the guidelines reflect core ethical values and include a commitment to respect for individuals informed by the principles of fidelity, fairness, equity, justice, accountability, and transparency. They are designed with the goal of maximizing benefits based on an objective assessment of patients' chances of survival and include consideration of objective indices of organ failure to make clinical assessments. The guidelines do not permit decisions to be negatively influenced by, or disadvantage individuals based upon, race, culture, color, national origin, religion, marital status, age, sex, sexual orientation, gender identity, disability, socio-economic or insurance status, geography, perceived social worth, perceived quality of life, citizenship, immigration status, incarceration status, homelessness, or other discriminatory characteristic. They also include provisions specifying that scarce resource allocation decisions impacting patient care should be supported by teams of expert health care professionals who, to

the extent possible, are not directly involved in the care of patients affected by triage decisions. And they include an appeal mechanism to address errors in application of the allocation criteria.

If we get to the point where these standards are activated, does that mean Virginia has reached a crisis point and the health care system has reached its limits to care for patients?

Not necessarily. As noted, the guidelines can be implemented at an individual facility, across a region, or statewide. Each emergency situation is unique so there isn't one standard answer. In the event that a scarce resource allocation plan is activated, it could be unique to the specific challenges faced by one isolated facility or community, or it could be invoked in response to a more widespread event. In either case, all available steps will be taken to mitigate shortages and coordinate resources with other facilities within a region or across the state to avoid having to implement the policy to the extent possible.

What does the guidance document say about discrimination and individuals with disabilities?

The guidance document is explicit that scarce resource allocation protocols comply with all applicable anti-discrimination statutes, such as the Americans with Disabilities Act (ADA), the Age Discrimination Act, as well as any corresponding state laws, such as the Virginians with Disabilities Act.

Does the guidance document ensure that decisions are made objectively?

The guidance document specifically accounts for health equity considerations relating to all individuals as a component of a broader strategy to provide the best possible care for all people, based on an objective, evidence-based medical judgement and evaluation of individual patient condition as well as the scarcity of critical resources needed for treatment.